

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>13-O-14791-LMA</b>
	)	
<b>SHELLEY FERRIS PALM,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 74879,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

In this matter, respondent Shelley Ferris Palm (respondent) was charged with one count of misconduct stemming from a disciplinary probation matter. Respondent failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on June 28, 1977, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On October 10, 2013, the State Bar properly filed and served an NDC on respondent by certified mail, return receipt requested, at her membership records address. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)<sup>3</sup>

In addition, respondent had actual notice of this proceeding. On November 12, 2013, respondent appeared telephonically at the initial status conference. The court instructed respondent to file her response to the NDC by November 15, 2013.

Respondent failed to file a response to the NDC. On or about December 16, 2013, the State Bar filed and properly served a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on January 7, 2014. The order entering the default was served on respondent at her membership records address by certified mail, return

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<sup>3</sup> The State Bar did not indicate whether the NDC was returned as undeliverable or for any other reason. (Rules Proc. of State Bar, rule 5.80(B) [default declaration must state whether signed return receipt for NDC was received from member].)

receipt requested. The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent also did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On July 24, 2014, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since the default was entered; (2) respondent has no other disciplinary matters pending; (3) respondent has one prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on August 19, 2014.

Respondent has been disciplined on one prior occasion. Pursuant to a Supreme Court order filed on July 12, 2012, in case no. S201291 (State Bar Court case no. 08-C-14697), respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for two years, including a two-year period of actual suspension (with credit given for respondent's two-year period of interim suspension). In this matter, respondent stipulated that her criminal conviction on two counts of felony grand theft by embezzlement involved moral turpitude.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that

respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

**Case Number 13-O-14791**

Count One – respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation) by failing to timely submit three quarterly reports, failing to timely report compliance with her criminal probation on three occasions, and failing to timely provide the Office of Probation with proof that she attended a session of Ethics School and passed the test given at the end of that session.

**Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) respondent had actual notice of the proceedings prior to the entry of her default, as she was properly served with a copy of the NDC, participated in the initial status conference, and was instructed by the court to file a response to the NDC;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite actual notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATIONS**

### **Disbarment**

The court recommends that respondent Shelley Ferris Palm be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

### **California Rules of Court, Rule 9.20**

The court also recommends that respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

## **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Shelley Ferris Palm, State Bar number 74879, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: November \_\_\_\_, 2014

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LUCY ARMENDARIZ  
Judge of the State Bar Court